



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/588,091

07/28/2006

John M. Stencel

1284-001

4355

1009

7590

02/06/2008

KING & SCHICKLI, PLLC  
247 NORTH BROADWAY  
LEXINGTON, KY 40507

EXAMINER

KWOK, HELEN C

ART UNIT

PAPER NUMBER

2856

MAIL DATE

DELIVERY MODE

02/06/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/588,091

Applicant(s)

STENCEL, JOHN M.

Examiner

Helen C. Kwok

Art Unit

2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date November 2, 2006.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1, 4 and 18 are objected to because of the following informalities.

Appropriate correction is required.

In claim 1, line 2, the word – an – should be inserted before the word “object”.

In claim 4, line 2, the word -- the -- should be inserted before the word "object".

In claim 18, line 2, the phrase "the step of measuring" should be changed to -- the step of detecting -- to provide proper antecedent basis.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-4, 8 and 11-15 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,246,516 (Maropis).

With regards to claims 1, 3, 4, 8, 11 and 12, Maropis discloses an apparatus for monitoring and controlling a foam 16 associated with a liquid 14 comprising a passive sensor 60 for generating an output signal representative of an acoustic emission associated with the foam; and a controller in communication with the passive sensor for receiving the output signal and providing a response. Furthermore, the response

activates a signal for displaying data on a display device 83; liquid susceptible to foaming to receive a flow of gas such that the foam is created; heating and curing of a precursor material including the foam. (See, column 1, line 60 to column 6, line 63).

With regards to claims 13-15, the claims are commensurate in scope with the above claims and are rejected for the same reasons as set forth above.

4. Claims 1-4, 8-10 and 13-20 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 6,461,414 (Kohl et al.).

With regards to claims 1-4, 8-10, Kohl et al. discloses an apparatus for monitoring and controlling a foam associated with a liquid comprising a plurality of passive sensors (i.e. hydrophone) for generating an output signal representative of an acoustic emission associated with the foam; and a controller in communication with the passive sensors for receiving the output signal and providing a response. Furthermore, the response includes a signal for activating a source of foam suppressant to the liquid; the response activates a signal for displaying data on a display device; liquid susceptible to foaming to receive a flow of gas such that the foam is created. (See, column 4, line 1 to column 9, line 42).

With regards to claims 13-20, the claims are commensurate in scope with the above claims and are rejected for the same reasons as set forth above.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent U.S. Patent 3,246,516 (Maropis) or U.S. Patent 6,461,414 (Kohl et al.) in view of U.S. Patent 4,325,255 (Howard et al.).

With regards to claim 5, neither Maropis or Kohl et al. explicitly suggests a system for testing a mineral admixture for making concrete. Howard et al. teaches monitoring changes in a physical/chemical characteristics like curing of resins, concrete and similar materials. It would have been well known to an artisan in the art to have readily recognize the advantages and desirability of combining the device with a system for testing a mineral admixture for making concrete as suggested by Howard et al. wherein the characteristics of the concrete can be monitored in such a way that all of the results in the changes in impedance to the delivery of ultrasonic energy into the material through an ultrasonic probe is carried out.

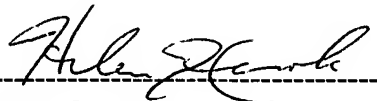
With regards to claims 6-7, Kohl et al. further discloses a source of an air entraining agent added to the admixture such that the response includes a signal for activating an agitator.

***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen C. Kwok whose telephone number is (571) 272-2197. The examiner can normally be reached on 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
-----  
Helen C. Kwok  
Art Unit 2856